



Brookfield Place, 200 Vesey Street  
20th Floor  
New York, NY 10281-2101  
Telephone: 212-415-8600  
Fax: 212-303-2754  
www.lockelord.com

Gregory T. Casamento  
Direct Telephone: 212-812-8325  
gcasamento@lockelord.com

October 13, 2021

By ECF

Hon. Barbara Moses  
United States Magistrate Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: *Michelo, et al. v. National Collegiate Student Loan Trust 2007-2 et al.*,  
18-cv-01781-PGG  
*Bifulco, et al. v. National Collegiate Student Loan Trust 2004-2 et al.*,  
18-cv-07962-PGG

Dear Judge Moses:

Defendants respectfully request permission to file a short sur-reply in opposition to Plaintiffs' Motion for Class Certification to address new legal arguments and clarify certain factual misstatements made in Plaintiffs' Reply brief. A copy of the sur-reply Defendants seek to file is attached hereto as Exhibit A.

"Courts have broad discretion to consider arguments in a sur-reply." *Am. S.S. Owners Mut. Prot. & Indem. Ass'n, Inc. v. Am. Boat Co., LLC*, 2012 WL 32352, at \*1 (S.D.N.Y. Jan. 6, 2012) (quoting *Newton v. City of New York*, 738 F. Supp. 2d 397, 417 n.11 (S.D.N.Y. 2010)). Here, permission to file a limited sur-reply is necessary in order to allow Defendants to respond to new legal arguments made for the first time in Plaintiffs' reply brief, as well as to clarify certain factual statements which, if left as-is, would leave the Court with an incomplete if not incorrect understanding of facts central to Plaintiffs' claims. Defendants have endeavored to limit their arguments only to those specifically appropriate for a sur-reply, and to keep the arguments as concise as possible.

For these reasons, Defendants respectfully request that the Court issue an order permitting them to file their sur-reply in opposition to Plaintiffs' Motion for Class Certification.

Hon. Barbara Moses  
October 13, 2021  
Page 2

Respectfully,

By: /s/ Gregory T. Casamento

Gregory T. Casamento  
R. James DeRose, III  
LOCKE LORD LLP  
Brookfield Place, 20th Floor  
200 Vesey Street  
New York, New York 10281  
(212) 415-8600  
[gcasamento@lockelord.com](mailto:gcasamento@lockelord.com)  
[rderose@lockelord.com](mailto:rderose@lockelord.com)

J. Matthew Goodin  
LOCKE LORD LLP  
111 South Wacker Drive, Suite 4100  
Chicago, Illinois 60606  
(312) 443-0700  
[jmgoodin@lockelord.com](mailto:jmgoodin@lockelord.com)

*Attorneys for Defendants National Collegiate  
Student Loan Trust 2004-2, National Collegiate  
Student Loan Trust 2006-4, National Collegiate  
Student Loan Trust 2007-2, and National Collegiate  
Student Loan Trust 2007-3*

By: /s/ James K. Schultz

James K. Schultz  
SESSIONS, ISRAEL & SHARTLE LLC  
1545 Hotel Circle South, Suite 150  
San Diego, California 92108  
(619) 296-2018  
[jschultz@sessions.legal](mailto:jschultz@sessions.legal)

Bryan Shartle  
SESSIONS, ISRAEL & SHARTLE LLC  
3850 N. Causeway Blvd., Ste. 200  
Metairie, Louisiana 70002  
(504) 846-7917  
[bshartle@sessions.legal](mailto:bshartle@sessions.legal)

Morgan Ian Marcus  
SESSIONS, ISRAEL & SHARTLE LLC

Hon. Barbara Moses  
October 13, 2021  
Page 3

120 South LaSalle Street, Suite 1960  
Chicago, Illinois 60603  
(312) 578-0990  
[mmarcus@sessions.legal](mailto:mmarcus@sessions.legal)

*Attorneys for Defendants Transworld Systems, Inc.  
and EGS Financial Care, Inc.*

By: /s/ Carol A. Lastorino  
Carol A. Lastorino  
Amanda Rae Griner  
RIVKIN RADLER LLP  
926 Rexcorp Plaza  
Uniondale, New York 11556  
(516) 357-3101  
[carol.lastorino@rivkin.com](mailto:carol.lastorino@rivkin.com)  
[Amanda.gruman@rivkin.com](mailto:Amanda.gruman@rivkin.com)

*Attorneys for Defendant Forster & Garbus LLP*

Cc: All parties entitled to notice  
Hon. Paul G. Gardephe

Enclosures